IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.187 of 2006

Revathy ... Petitioner

vs.

1. State of Tamil Nadu,
represented by
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai, Egmore, Chennai-8. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 11.11.2005 in Memo No.516/BDFGISV/2005 against the petitioner's husband David, Male, aged 25, Son of Samvel, who is confined at Central Prison, Chennai, set aside the same, direct the respondents to produce him before Court and set him at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.G.Saravanan,
Government Advocate.

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O R D E R

P.SATHASIVAM, J.

The petitioner herein challenges the detention order, dated 11.11.2005, detaining her husband by name David as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. Mr.V.Parthiban, learned counsel for the petitioner, submitted that in view of the discrepancy in the Serial Numbers in the First Information Reports, in the absence of proper explanation, the impugned order passed by the second respondent is liable to be quashed on the ground of non-application of mind.

4. In support of the above contention, learned counsel for the petitioner furnished certain details, viz., in the Booklet supplied to the detenu, page Nos.25 and 26 are the F.I.R. Copy of M-3 Puzhal Police Station in Crime No.1061/2005; page Nos.35 and 36 are the F.I.R. Copy of M3 Puzhal Police Station in Crime No.1062 of 2005; Page Nos.44 and 45 are the F.I.R. Copy of M3 Puzhal Police Station in Crime No.1068 of 2005; and the first two F.I.Rs. relate to the adverse cases and the last one relates to the ground case. He also pointed out that with regard to the first case relating to Crime No.1061 of 2005, the date of occurrence is 20.10.2005 and the serial number of the F.I.R. is 1661834; the second case relates to Crime No.1062 of 2005 and the date of occurrence is 15.10.2005 and the serial number of the F.I.R. is 1661833; and the third case, which is the ground case, relates to Crime No.1068 of 2005 and the date of occurrence is 24.10.2005 and the serial number of the F.I.R. is 1661834. By pointing out the above details, he submits that even though there is a clear gap of 2 days respectively with regard to the date of occurrence and two cases reported on 21.10.2005 and 24.10.2005, the Serial Number of the F.I.Rs. relating to those two cases is same, which clearly shows that all the cases have been foisted against the detenu in a single day to detain him under the Tamil Nadu Act 14 of 1982.

5. In the light of the factual details furnished, we verified the Serial Numbers found in the F.I.R. As pointed out, in respect of the two cases reported on 21.10.2005 and 24.10.2005, the serial number of the F.I.R. is the same. However, learned Government Advocate, by drawing our attention to the explanation offered by the Sponsoring Authority and the Detaining Authority in the form of supporting affidavit and counter affidavit respectively, contended that the serial numbers found in the F.I.R Forms are the numbers given by the Government Press and they are in no way concerned with the maintenance of F.I.R. Book at the Police Station. It is useful to refer to the details furnished by the Sponsoring Authority in the Supporting Affidavit, dated 22.06.2006, which reads as under:-

> " I submit that First Information Reports forms are issued by the Government through the Government Press. Each book of First Information Report forms will contain 150 leaves and the same was stapled. Six of the leaves will have the same number. Hence, in one book 25 numbers of FIR form will be available. Due to shortage and availability of Xerox machines only three copies are prepared in the issued FIR form and rest of the copies

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will be Xeroxed and forwarded to the higher police authorities.

I also submit that the instruction regard the First Information Report in the Police Standing Order is as follows:-

> " Cases entered in the First Information Report Book will be given a consecutive number and this number will constitute the crime number for the purpose of the subsidiary records"

I further submit that every Police Station will have two detachment. One is called Law and Order detachment who will registered cases against human body and the other detachment called Crime detachment who will register cases against property. Each of the detachment were supplied with FIR forms Books. But for the Police Satin Crime number is maintained in serial order. When any offence reported against human body the complaint will be taken by the Law and Order Police and they will register the case in the FIR forms available with them by taking the crime number from the FIR Index and continue the investigation. In case of a report of a property offence the crime police will take the complaint and they will register a case in the FIR forms available with them by taking the crime number from the FIR Index and will continue the investigation. Hence the crime number will be in serial order for the police station. The crime number and the FIR forms Serial number will not tally. Further the Serial Number found in the FIR forms are the number given by the Government Press and they are not in any way concerned with the maintenance of FIR book at the Police Station Further I submit that on the complaint of one Yogannath on 21.10.2005 at 16.00 hrs. I registered a case in M3 Puzhal Police Station Crime No.1061/2005 and 2 grams of Kammal one of the property was recovered from the co-accused. Similarly on 24.10.2005 at 09.00 hrs Tr.Vasu, Sub Inspector of Police with the help of the public apprehend the detenu and his associate and produced before me and lodged a special report and I registered a case in M3 Puzhal Police Station Crime No.1068/2005 and took up the investigation. I further submit that M3 Puzhal Police Station Crime Nos.1061/2005 and 1068/2005 were registered on different dates and on different complaint. Further the properties concerned in all the cases cited in the grounds of detention were also recovered. I with great respect submit that the detenu admitted all the offence in his confession statement and

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> also there are other material evidences available to show that the detenu is involved in all the cases cited in the grounds of detention. "

There is no reason to disbelieve the above explanation offered by the Sponsoring Authority.

6. Chapter XII of the Code of Criminal Procedure, 1973, refers to 'INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE'. Section 154 (1) makes it clear that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf. Order 560 of the Madras Police Standing Orders speaks about the instruction regarding First Information Reports. Sub clause (1) states that cases entered in the First Information Report Book will be given a consecutive number and this number will constitute the crime number for the purpose of subsequent records. Thus, it is clear that every information given orally or in writing shall be entered in a book to be kept by the Officer. It is also clear that the cases entered in the F.I.R. Book will be given a consecutive number and the same shall be the crime number for all purposes.

7. It is not in dispute that the Crime Numbers have been properly assigned. In other words, the Crime Numbers are in seriatim and there is no dispute regarding the same. The only discrepancy pointed out relates to the Serial Number found in the F.I.R. Forms. We have already noted that the serial numbers in the F.I.R. Forms are the numbers given by the Government Press and the Officers in the Station have no role in assigning serial numbers.

8. In H.C.P. No.1561 of 1995, dated 19.03.1996, when similar contention was raised regarding discrepancy in Serial Number in the F.I.Rs., after verifying the same and after being satisfied that the Crime Numbers are in order, a Division Bench of this Court rejected the said contention.

9. In HCP No.786 of 1999, dated 09.11.1999, while considering similar objection, the Division Bench concluded thus:-

> " 6. ..... From the serial of the F.I.R. book, it is clear that two different books have been used and as such the discrepancy with regard to the serial number of the F.I.R. book may not have any relevance and the same will not vitiate the impugned order of detention also. "

10. In H.C.P. No.492 of 2003, dated 4.11.2003, while considering

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similar issue, the Division Bench observed as follows:-

> " 6. ..... It is pointed out by the learned Government Advocate that for want of F.I.R. Form numbers, the forms are xeroxed and more than one number of the form is used for different crimes and this will not vitiate the order of detention. We agree with the learned Government Advocate in this respect. That apart there cannot be an impossibility at all since the second crime has been registered on a latter date in respect of the crime which took place on the earlier date. The truth or otherwise of the ground case cannot be gone into in the present proceedings."

11. In HCP No.1165 of 2005, dated 09.03.2006, the Division Bench, while considering similar objection, accepted the stand of the Government Advocate that F.I.R. Forms are issued by the Government Press and that the Serial Numbers therein has nothing to do with the Crime Number assigned by the Station House Officer.

12. All the above decisions make it clear that as per Section 154 (1) Cr.P.C. and Order-560 of the Madras Police Standing Orders, the information either oral or in writing has to be entered in the First Information Report Book and the same has to be assigned a number, which is called Crime Number, and there cannot be any error in assigning Crime Number. In such circumstances, we accept the explanation offered by the respondents and reject the contention raised by the learned counsel for the petitioner.

13. Finally, learned counsel appearing for the petitioner, by drawing our attention to paragraph No.4 of the grounds of detention, contended that though the Detaining Authority was aware of the fact that the detenu was in remand in M3 Puzhal Police Station Cr. Nos.1068/2005, 766/2005, 1033/2005, 1061/2005 and 1062 of 2005, however, he has not taken note of the relevant fact that even if he comes out on bail in the ground case, in the absence of separate order by the competent court in respect of other Crime Numbers (adverse cases), there is no possibility of the detenu coming out from the prison. According to him, this aspect has not been considered by the Detaining Authority.

14. As rightly explained by the second respondent in her counter affidavit dated 22.06.2006 and rightly stated by the learned Government Advocate, all the adverse cases are triable by the Magistrate but the ground case is triable by the Court of Sessions. The ground case relates to various offences under Sections-341, 336, 307, 353, 427 and 506(ii) IPC. and those offences are graver in nature. If the detenu comes out on bail in a case involving graver offence, it will not be difficult to get bail in other adverse cases, considering the lesser nature of offence. If graver

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offence is taken into consideration for passing the order of detention, the ultimate decision taken by the Detaining Authority cannot be faulted with. Accordingly, we reject the said contention also.

15. In the light of what is stated above, we do not find any error or infirmity for interference. Habeas Corpus Petition fails and the same is dismissed.

JI.

Sd/
Asst.Registrar

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Sub Asst.Registrar

To
1.The Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.
2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.
3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.
2 ccs to Mr.V.Parthiban, Advocate, SR.Nos.28432 & 28006
vc (co)

dv/7.7.06

HCP. No.187 of 2006

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